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SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 322nd MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 6 May 1998, at 10 a.m.

Chairman: Mr. BURNS

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* The summary record of the second part (closed) of the meeting appears as document CAT/C/SR.322/Add.1.

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The meeting was called to order at 10 a.m.

SOLEMN DECLARATION BY THE NEWLY ELECTED MEMBERS OF THE COMMITTEE (agenda item 2) (continued)

1. The CHAIRMAN recalled that since Mr. Pikis had been unable to serve his full term of office, the State of which he was a national, Cyprus, had designated Mr. Mavrommatis to replace him. He invited Mr. Mavrommatis to make the solemn declaration under rule 14 of the Committee's rules of procedure (CAT/C/3/Rev.2).

2. Mr. MAVROMMATIS made the following declaration: "I solemnly declare that I will perform my duties and exercise my powers as a member of the Committee against Torture honourably, faithfully, impartially and conscientiously".

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (agenda item 6) (continued)

Third periodic report of Norway (CAT/C/34/Add.8)

At the invitation of the Chairman, Mr. Wille, Mrs. Indreberg and Mrs. Nystuen (Norway) took places at the Committee table.

3. Mr. WILLE (Norway) said that his Government was pleased to present its third periodic report to the Committee and was convinced that the dialogue with the Committee was a vital component of the system for monitoring the implementation of the international instruments and an opportunity for States to take stock of their action. His introductory statement to the discussion of the report would deal with new developments since the submission of the third periodic report.

4. In paragraph 45 of Norway's first supplementary report, information had been given about investigations of alleged large-scale police brutality in the city of Bergen; 368 cases of alleged police abuse supposed to have taken place between 1979 and 1986 had been investigated, but in only one case had sufficient evidence been found to charge a police officer with a criminal offence. More than 100 persons had subsequently been investigated for alleged false accusations against the police. Fifteen of those persons had been charged with making false accusations. Eleven of them had been convicted in what had been called the "boomerang cases". In 10 of those cases the question of guilt had been decided by a jury. However, in a defamation proceeding before the Oslo City Court in 1992, it had been established that unlawful use of force had, in fact, occurred in Bergen. The Supreme Court had decided on 16 January 1998 to reopen seven of the "boomerang cases". The reasons for the Supreme Court's decision were that special circumstances had made it doubtful whether the judgements in the "boomerang cases" had been correct and weighty considerations had indicated that the question of guilt should be tried anew. The Supreme Court had expressed the unanimous view that it must be deemed evident that police brutality had to a certain extent occurred in the period between 1974 and 1986. In the new trial following the decision to reopen the cases, all of the seven persons who had had their cases reopened had been acquitted.

5. He also wished to inform the Committee that the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment had visited Norway for the second time from 17 to 21 March 1997; as a result of that visit, further efforts had been made to reduce the length of custody in police establishments and to improve the treatment of persons in custody. Lastly, the Norwegian Government had decided in 1998 to contribute NKr 1 million, or approximately US$ 135,000, to the United Nations Voluntary Fund for Victims of Torture.

6. The CHAIRMAN thanked Mr. Wille for his concise and precise introduction.

7. Mr. SØRENSEN (Rapporteur for Norway) commended the Norwegian Government on the quality of its report. With one section devoted to new measures and developments relating to the implementation of the Convention and another replying to questions raised during the consideration of the second report, the report fully met the Committee's expectations. He also noted with satisfaction that two members of the delegation had already formed part of the delegation which had come to present the second periodic report; that was bound to facilitate the dialogue.

8. The first important point he wished to raise was the absence in Norwegian legislation of a definition of torture and of a penal provision characterizing it as a crime. That shortcoming had already been highlighted during the consideration of previous reports, and he had read carefully the Norwegian Government's comments on the punishment of acts of torture (paras. 15, 21 to 34 and 76 to 85 of the third periodic report). He noted with interest that the General Civil Penal Code was currently being redrafted by a committee appointed by the Government and that the committee's chairman had been made aware of the opinion of the Committee against Torture. He hoped that the committee would also be informed about the concluding observations concerning the third periodic report. He wished to emphasize that, even if the acts causing suffering were punishable under several articles of the Penal Code, as stated in paragraph 83 of the report, that in no way amounted to the inclusion of a definition of torture and its characterization as a crime, for several reasons. Firstly, torture consisted of four elements: the existence of severe pain or suffering, whether physical or mental, the intention to inflict such suffering, a specific purpose and, lastly, particular perpetrators. The effects of acts of torture also differed from those resulting from other suffering, principally because the suffering in question was caused by man, and that was the most terrible thing of all. With a view to the rehabilitation of victims of torture, moreover, those responsible had to be prosecuted and sentenced precisely for having committed such acts, and not solely for an act characterized as rape or cruel treatment. All of those considerations showed how important it was for torture to be defined and provided for as a crime in the Penal Code. One consequence of the non-existence of the crime of torture in law was that it was impossible to record acts of torture that might be committed in the country. As for the status of international instruments in domestic law, one might ask why the European Convention for the Protection of Human Rights and Fundamental Freedoms could be incorporated into domestic law and the Convention against Torture could not.

9. The second important subject on which he wished to dwell was that of solitary confinement during pre-trial detention. That problem, which also existed in Sweden and Denmark, had attracted the attention of the European Committee for the Prevention of Torture during its visit to Norway. The Committee against Torture thought that all solitary confinement awaiting trial should be prohibited save in very exceptional cases. In the same connection, it would be interesting to know whether the judge who remanded a person in such custody before trial was also the one who decided upon the question of the defendant's guilt.

10. He could only welcome the latest information concerning the "boomerang cases", but would also appreciate having up-to-date statistics on police brutality. As for the implementation of article 10, he would like to receive details in writing about teaching and information regarding the prohibition against torture provided to medical personnel. Concerning article 11, he referred to paragraph 31 of the second periodic report (CAT/C/17/Add.1), where it was stated that the rules and practices relating to detention, including interrogations, were systematically monitored by the competent authorities; he would like to know who carried out the inspections in prisons and how often, whether an annual report was prepared and made public and whether non-governmental organizations were allowed to visit prisons. With regard to article 14, he found paragraphs 49 to 53 of the third periodic report very interesting. In addition, he warmly congratulated Norway on its participation in the United Nations Voluntary Fund for Victims of Torture; the amounts pledged by Norway made it one of the largest contributors. Lastly, he wished to draw the Norwegian delegation's attention to the fact that the General Assembly had the previous year decided to proclaim 26 June, the anniversary date of the entry into force of the Convention against Torture, the United Nations International Day in Support of Victims of Torture. He had no doubt that Norway, which was already doing a great deal to combat torture, would mark that day.

11. Mr. YAKOVLEV (Co-rapporteur for Norway) also expressed his appreciation for the quality of the report. He would like more information about the particular situation of the legal alien in Norway who committed an offence; according to information available to him, such an alien was punished twice: by a term of imprisonment in the country and by deportation. What was the legal basis for deportation? Was the decision automatic? What was the competent body and did it take into account the particular circumstances of the person - for example, the fact that he or she might have a family in Norway? Regarding the detention of a foreign national suspected of having given a false name, which according to paragraph 70 could not exceed 12 weeks unless there were special grounds for a longer remand, it would be interesting to know what kind of "special grounds" could justify that exception, as well as to have some clarification about the practice and purposes of the detention of asylum seekers; in that regard, he had information that in 1996 one alien had been kept in detention in Bergen for over a year.

12. Mr. YU Mengjia asked whether the bill on human rights scheduled to be presented to parliament in the spring of 1997 (para. 78 of the report) had been passed; if so, he would like to know its exact content.

13. Mr. CAMARA requested details concerning the situation of the three Iranians who had hijacked a Russian aircraft and in respect of whom the Russian Federation had submitted an extradition request. He would like to know in particular whether the decision of the Norwegian Supreme Court, which had ruled that the criteria for extradition had been met, simply amounted to advice or whether the Government had to abide by it and therefore proceed with the extradition. He felt that the very principle of article 3 of the Convention was at stake. Furthermore, if the three Iranians were extradited to Russia and were sentenced, could Norway press for them not to be deported to Iran after serving their sentences?

14. Mr. MAVROMMATIS associated himself with the members of the Committee who had stressed the quality of Norway's report. He also wished to congratulate Norway on the independence of its judiciary, which was exemplary.

15. He was surprised to note a disproportion, in paragraph 9 of the report, between the number of investigations into allegations of police brutality (2,322) and the number of cases in which a criminal offence had been found to have been committed (197), and asked for an explanation of that discrepancy. The Criminal Procedure Act did not explicitly state that evidence obtained under duress was inadmissible, and that was a shortcoming that should be remedied. Lastly, he too believed that it was imperative to define torture statutorily and make it a punishable offence. The provisions of the international instruments should, furthermore, be incorporated into domestic law.

16. The CHAIRMAN invited the Norwegian delegation to reply at the next meeting to the questions put by members of the Committee.

17. The Norwegian delegation withdrew.

The public part of the meeting rose at 11 a.m.